



# Report to the Secretary of State for Communities and Local Government

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an Inspector appointed by the Secretary of State  
for Communities and Local Government

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**Town and Country Planning Act 1990**

**Central Bedfordshire Council**

**Appeal by**

**J S Bloor (Northampton) Ltd**

Inquiry held on 19 January 2010

Land at Stoke Road, Leighton Linlade

File Ref(s): APP/P0240/A/09/2110667

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**File Ref: APP/P0240/A/09/2110667**  
**Land at Stoke Road, Leighton Linlade**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by J S Bloor (Northampton) Limited against the decision of Central Bedfordshire Council.
- The application Ref SB/09/00163/OUT, dated 13 March 2009, was refused by notice dated 6 August 2009.
- The development proposed is for residential development of up to 199 dwellings, strategic open space, children's play areas and ancillary car parking, landscaping and engineering works.

**Summary of Recommendation: The appeal be refused.**

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**PROCEDURAL MATTERS**

1. The Inquiry opened on 19 January 2010 and sat for 6 days. I made accompanied visits to the appeal site and surroundings, interested parties properties and the Sewage Treatment Works on 28 January 2010 and an unaccompanied visit to the wider area on the 29 January 2010.
2. The appeal relates to a planning application submitted in outline with access only to be determined at this stage. Appearance, layout and scale are all reserved matters. The plans forming the subject of the appeal are the Site Plan, the Parameters Plan and the Masterplan<sup>1</sup>.
3. CBC refused the application for four reasons which are set out in full in the Decision Notice<sup>2</sup>. The reasons for refusal can be summarised as follows:
  - i) The site lies within the South Bedfordshire Green Belt and therefore the proposal would conflict with Planning Policy Guidance Note 2: Green Belt. No very special circumstances have been established in this case.
  - ii) The site is located within an Area of Great Landscape Value where the proposed residential development would appear as an intrusion into the countryside detrimental to its appearance and rural character
  - iii) The proposed houses and public open space would be in close proximity to the Leighton Linlade Sewage Treatment Works. The current operating capacity of the works is such that it will require upgrading which would intensify operations and be likely to fail to provide an adequate level of amenity for future residents and users of the open space.
  - iv) The proposed relationship of the residential development with adjacent properties in Rothschild Road would be likely to result in an unacceptable impact on the visual amenities of the occupiers of nearby dwellings.
4. The Secretary of State for Communities and Local Government issued a direction on 3 September 2009 indicating that he would determine the case.

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<sup>1</sup> CD1

<sup>2</sup> CD23

The reason for the direction is that the appeal relates to proposals for significant development in the Green Belt.

5. The Statement of Common Ground (SOCG) (CD24) includes a description of the site and surroundings, site planning history, planning policies, the provision of a planning obligation. Subject to conditions and undertakings highways and transportation, ecology, drainage and flooding, archaeology and arboriculture are not matters in dispute between CBC and the appellant.
6. A unilateral undertaking was submitted during the Inquiry (ID11). It relates to affordable housing, a community house, public open space, education, green wheel/bridge projects, public art and highways and transport.
7. Two Rule Six parties appeared at the Inquiry and they are 'The Campaign to Protect Rural England' and the 'Resident's Action Group'.

### **THE SITE AND SURROUNDINGS**

8. The appeal site is an irregularly shaped piece of land, some 12.8 hectares in size lying within the South Bedfordshire Green Belt. It is located at the northern edge of Leighton Linlade. It comprises four fields bounded by overgrown and gappy hedges, managed as improved pasture; small areas are retained as horse paddocks with one field un-grazed at present. There are considerable changes of level with the highest part of the site running in an east west ridge along the centre. Along the ridge are a row of trees many of which are included in Tree Preservation Orders<sup>3</sup>. Access to the site is via gated entrances from the Stoke Road to the North West and Bossington Lane to the south east. At present the site is not accessible to the general public.
9. The site is bounded to the north by Anglian Water Sewage Treatment Works (STW). To the north of the STW and winding around to the east of the site is the Grand Union Canal beyond which following a similar path is the River Ouzel. Further to the north and west is open land, with some urban development stretching to the north east along main roads leading out of Leighton Linlade. To the east is the single track, Bossington Lane, which is lined with fairly substantial, detached properties along its eastern side. Where Bossington Lane comes to an end the site is bounded to the east by open land. To the south of the site are rear gardens of properties on Rothschild Road and some small parcels of open land. To the west is Stoke Road, a main road through the area, beyond which are woods and open countryside<sup>4</sup>.
10. The appeal site is located within the Greensand Ridge Area of Great Landscape Value. This covers in part the Ouzel Greensand Valley, a river valley running through a prominent band of lower greensand and the Woburn Greensand Ridge is a large scale, rolling, elevated landscape running SW to NE across the country.

### **PLANNING POLICY**

11. Relevant Government Guidance includes Planning Policy Statement (PPS)1 (and supplements) Delivering Sustainable Development; Planning Policy

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<sup>3</sup> CD26 plan Nos 2869\_LO\_01, 02, 04, 05 and 07

<sup>4</sup> CD24 Appendix 1

Guidance Note (PPG) 2 Green Belts; PPS3 Housing and PPS7 Sustainable Development in Rural Areas.

12. Central Bedfordshire was formed in April 2009 along with a number of other unitary councils across the country. The development plan comprises the East of England Plan (EoEP)<sup>5</sup>; the Milton Keynes and South Midlands Sub-Regional Strategy (MKSMSRS)<sup>6</sup>; the Bedfordshire and Luton Structure Plan 2011 (SP)<sup>7</sup>; the South Bedfordshire Local Plan Review (Jan 2004) (LP)<sup>8</sup>. The following is a summary of relevant policies either referred to in the SOCG (CD24) or in evidence at the Inquiry.

### **East of England Plan (CD2)**

13. Spatial Strategy policy SS1 sets out the guiding principles for achieving sustainable development, including strategic communities. SS2 sets out the overall spatial strategy seeking to direct significant growth to the regions major urban areas, having regard to accessibility and social and physical infrastructure. SS3 identifies Luton/Dunstable /Houghton Regis and Leighton Linlade as one of several key centres for development and change, where new development should be concentrated. SS8 seeks to secure the enhancement, effective management and appropriate uses of the urban fringe.
14. Housing policy H1 indicates a minimum dwelling target of 26,300 for the MKSM strategy area of Luton/Dunstable /Houghton Regis and Leighton Linlade over the period of 2001 – 2021. Policy H2 sets a target for the region of some 35% of new housing coming forward to be affordable housing.
15. Regional Transport Strategy policy T9 aims for the provision of walking, cycling and other non-motorised transport to be improved and developed. T13 seeks to improve public transport as a package of measure to improve accessibility. Environment policy ENV1 relates to green infrastructure, seeking areas and networks to be identified, created, protected, enhanced and managed to ensure a long term healthy environment. ENV3 indicates that biodiversity, earth heritage and natural resources are protected and enriched. ENV7 seeks a high quality development which complements the local area.

### **Milton Keynes and South Midlands Sub-Regional Strategy (CD3)**

16. Strategic Policy 1 identifies locations for growth including Luton/Dunstable /Houghton Regis with Leighton Linlade where 26,300 new homes are to be provided. The policy encourages housing provision to be made up from the urban areas including Sustainable Urban Extensions. Strategic Policy 3 sets out wide ranging criteria for achieving sustainable communities.
17. Bedfordshire and Luton Policy 2(a) Luton/Dunstable /Houghton Regis and Leighton Linlade, indicates that LDDs should review Green Belt boundaries so that in combination sufficient land is made available to meet land use needs to 2021. Policy 2(b) sets out the rates of housing growth during 2001 – 2021 as follows: 700 dwellings per year up to 2006; 1,300 dwellings per year 2006-11;

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<sup>5</sup> CD2

<sup>6</sup> CD3

<sup>7</sup> CD4

<sup>8</sup> CD5

1,600 dwelling per year 2011-16 and 1,660 dwellings per year 2016-21. This equates to a total of 26,300 dwellings.

#### **Bedfordshire Structure Plan 2011 (CD4)**

18. Policy 7 identifies Areas of Great Landscape Value (AGLV) seeking to protect the landscape quality of these areas by protecting their character including the preparation and promotion of conservation, enhancement and management measures.

#### **South Bedfordshire Local Plan Review (CD5)**

19. SD1 sets out a strategy to achieve sustainable development with the primary focus of new development to be on previously developed land. Paragraph 1.38 of the policy justification recognises that at the fringes of urban areas, land which does not serve a Green Belt function could be developed. NE3 seeks to protect the landscape character and setting of AGLVs. BE8 sets out a number of design and environmental criteria for new development.
20. H4 seeks the provision of affordable housing on all suitable residential sites. R4 relates to the Ouzel Valley Park proposals seeking provision of open space and improved access to the river and canal. R11 sets out the requirements of urban open space and residential development. R14 seeks to improve access to the countryside. Policies H2 and H3 referred to by the Council are not relevant to the appeal site as they relate to development within the built-up areas excluded from the Green Belt.

#### **Other Policy Documents**

21. Luton and South Bedfordshire Core Strategy: Preferred Options was published in April 2009 (CD21). Paragraphs 4.21 – 4.30 relate to Sustainable Urban Extensions (SUE). Paragraph 4.24 indicates that there are four preferred strategic options; three within Central Bedfordshire District and one within North Hertfordshire District; of the three within Central Bedfordshire one lies to the east of Leighton Linlode<sup>9</sup>. The document is at an early stage in the plan making programme. CBC has no set date for the Examination of the Core strategy<sup>10</sup>.
22. South Bedfordshire District Council Guidance on Affordable Housing (CD7) and on Planning Obligations (ID37) are also relevant.

#### **PLANNING HISTORY**

23. The planning history relating to the site or part of it is as follows:
  - 1971 Planning permission refused for residential development.
  - 1974 planning permission refused for the erection of 15 bungalows. Appeal dismissed.
  - 1978 planning permission refused for the erection of one dwelling house. Appeal dismissed.

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<sup>9</sup> CD21 page 24 Fig. 1

<sup>10</sup> Mr Fox's evidence

- 1980 planning permission refused for residential development.
- 1981 planning permission refused for a golf course and associated buildings.
- 1993 planning permission granted for construction of a vehicular access from Stoke Road restricted by condition to provide access to either the adjoining agricultural land or a golf course. Not implemented.
- 1996 planning permission refused for construction of a 9 hole golf course and ancillary works (outline).
- 2008 request for screening opinion under regulation 5 of the Environmental Impact Assessment (EIA) Regulations in respect of the appeal proposals. CBC decided that an EIA was not required.

## **THE PROPOSALS**

24. Outline application for residential development of up to 199 dwellings, strategic open space, children's play areas and ancillary car parking, landscaping and engineering works. Appearance, landscaping, layout and scale are all reserved matters.
25. The parameters plan sets out the point of access from Stoke Road and areas to be occupied by residential development and public open space. The Masterplan shows an illustrative layout for the dwellings with associated access roads and landscaping. New cycle and pedestrian routes are proposed through the site linking Bossington Lane, Stoke Road and the canal. An illustration of the housing types and ranges is shown on CD26 2896\_LO\_19. The access arrangements are shown on plan reference 208492/001/RevA.
26. A range of statements, reports assessments and studies were submitted with the application. These relate to sustainability, health, education, affordable housing, community facilities, open space, design and access, transport, archaeology, flooding, odour, noise, agricultural land, ecology, trees, landscape, geo-environment, lighting, waste, renewable energy, swing bridge, services. The documents accompanying the application are contained in CD1.

## **OTHER AGREED FACTS**

27. A Statement of Common Ground between the appellant and CBC dated 18 January 2010<sup>11</sup> agreed that that the deliverable supply of housing would be 6,692 for Luton/Dunstable /Houghton Regis and Leighton Linlade over the period April 2009 to March 2014. It confirms that CBC is unable to demonstrate a five year supply of land which would deliver the minimum housing target for the period.
28. A Statement of Common Ground between the appellant and Anglian Water dated 15 January 2010<sup>12</sup> set out that there was sufficient capacity at the adjacent STW to accommodate an increase in flows associated with the proposed development. Any upgrades of extensions to the STW would be within the site but might require temporary works outside the current boundary. Planning permission may be required for upgrades or extensions.

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<sup>11</sup> ID3

<sup>12</sup> ID10

## THE CASE FOR J S BLOOR (NORTHAMPTON) LTD

The material points are:

### *Inappropriate development in the Green Belt*

29. It is accepted that the residential part of the development would be inappropriate development in the Green Belt, which is harmful. Furthermore, there would be a loss of openness by part of the land being developed<sup>13</sup>. However, the overall assessment of harm is limited. In terms of Green Belt purposes, the appeal site is significantly compromised. With regard to encroachment and urban sprawl, the site is contained by Bossington Lane, Stoke Road, the railway line, the canal and the STW. The STW, although washed over by the Green Belt, is a substantial element of built form which already compromises openness.
30. The area is perceived as rural fringe, separated from the wider countryside and although there would be localised views of the proposed development, the alteration in distant views would be insignificant. The proposal would form a new urban edge clearly defined by the strategic open space. Therefore there would be no appearance of unrestricted sprawling development and only a limited perception of encroachment. The public open space would not be inappropriate development and would meet the purposes of the Green Belt.

### *Housing*

31. From the expected annual rates of delivery set for Luton/Dunstable /Houghton Regis and Leighton Linlade in the MKSMSRS<sup>14</sup>, the target amount of housing to be delivered within the five year period April 2009 to March 2014 is 7,400 (2 years at 1,300 for 2009/11 + 3 years at 1,600 for 2011/14) over the five year period<sup>15</sup>. It is accepted by both parties that the number of dwellings likely to be delivered within this period is 6,692<sup>16</sup>. Central Bedfordshire Council (CBC) suggest that this would provide a 4.5 year supply (7,400 – 6,692).
32. However, there is already a cumulative shortfall of 691 of delivered dwellings from 2001 - 2009<sup>17</sup> and this shortfall should be included in the minimum housing target for the plan period 2001-2009. This means that the minimum 5 year requirement going forward should include the current residual deficit of 691 dwellings. On this basis the minimum housing target would be 8,091 (7,400 + 691). The shortfall for the five year period 2009 – 2014 is therefore 1,399 dwellings (8,091 – 6,692) and there is only a 4.1 year supply.
33. This approach is supported by CLG advice contained in Land Supply Assessment Checks<sup>18</sup> which indicates at paragraph 4.17, that where housing supply is set as a 'minimum', any historic under supply would have to be added to future five year requirements. The example given in this document

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<sup>13</sup> Mr Kratt's POE para 5.2.4

<sup>14</sup> CD3 policy 2(b)

<sup>15</sup> Mr Fox's evidence

<sup>16</sup> ID3

<sup>17</sup> Mr Stacey's POE page 50

<sup>18</sup> CD18



is of Sedgefield Borough Council which clearly indicates that within the plan period the historic shortfall was added to the total housing target. Furthermore, a letter from CLG Chief Planner dated 12 May 2009<sup>19</sup> recommends Land Supply Assessment Checks as a best practice guide.

34. In any event, the shortfall whether 4.5 years (708 dwellings) or 4.1 years (1,399) is not an insignificant number of dwellings in the region. PPS3 paragraph 79 advises where there is a shortfall in the 5 year supply that applications for housing should be looked upon favourably.
35. With regard to affordable housing; South Bedfordshire District Guidance on Affordable Housing (CD7) recognises that there is a need for 199 affordable dwellings per year up to 2010 upon which the Council should aim to secure 35% affordable units. This is based on the most recent assessment of housing need set out in the South Bedfordshire Housing Requirement Study (HRS)<sup>20</sup>. The requirement to deliver 199 units has not been achieved in the last four years and the HRS assessed an annual requirement of no less than 573 dwellings per annum in order to make up the shortfall within South Bedfordshire.
36. There is therefore a significant shortfall in the provision of affordable housing in the region. The problem will be exacerbated in the current economic climate with an increased demand for social housing following higher unemployment, increased mortgage repossessions, curtailed finance and lower number of private houses being built<sup>21</sup>.
37. The appeal scheme would provide a total of 35% affordable dwellings which would be up to 69 units - 48 would be for social rent and 21 immediate tenure. Two recent Secretary of State decisions<sup>22</sup> emphasise the importance of the deliverability of sustainable affordable housing provision as a material consideration.
38. Although CBC attributes the shortfall in the five year supply and affordable housing delivery partly to economic conditions, and it is likely that housing supply is fluctuating because of the economic downturn that should not lessen the importance of the 5 year shortfall. In fact, according to the National Housing Policy Advice Unit (NHPAU) Housing Requirement and the Impact of Recent Economic and Demographic Change<sup>23</sup> the focus should be on deliverability as house building is falling to historically low levels whilst projections of future housing requirements are rising, as the demographic requirements are still existing.
39. CBC's position that economic recovery and provision of the SUEs will ensure that overall the housing target of 26,300 will be met by 2021, cannot be assured. The MKSKSRS indicated in 2005 that a review of the Green Belt together and the publication of LDD identifying the SUE should take place quickly<sup>24</sup> to enable the minimum housing target to be met. This has not been

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<sup>19</sup> CD25 appendix PS28

<sup>20</sup> CD6

<sup>21</sup> CD25 Mr Stacey's POE page 56

<sup>22</sup> CD25 Mr Stacey's appendix PS23

<sup>23</sup> CD26 appendix PS26

<sup>24</sup> CD3 para 88

done. The Core Strategy is at the preferred options stage and no Area Action Plans have been produced. Luton Borough Council has objected to North Hertfordshire SUE. CBC indicated that the knock on effect of that objection could be that their Core Strategy is delayed by 6 – 12 months, possibly as late as 2011. In addition future market conditions cannot be accurately predicted. As a consequence there is a significant risk that the EoEP targets will not be met.

40. The proposal would not prejudice other development in the area including the SUEs as follows: The EoEP requirement is for a minimum housing provision, indicating that additional housing over and about this amount is desirable; there is no commercial market evidence to show that approval of the proposals would prejudice any other development in the area in any way; the appeal proposals are too small to undermine the strategic approach to SUE relied on by CBC to deliver the required housing and finally, this site would be substantially completed before those sites begin to significantly contribute.
41. The proposal would provide up to 199 houses, of which 35% would be affordable units. The development is capable of being delivered over the next five years as there are no major infrastructure costs. It would be family housing where the market is still buoyant and the land value will be at the rate prevailing at the time of approval. It would make a considerable contribution towards housing in Central Bedfordshire and therefore significant weight should be attached to this as a material consideration in favour of the proposal.

#### *Accessibility*

42. The proposal would make good use of existing infrastructure linking the site with main roads, public rights of way, bridleways and cycle routes. The appeal site falls within the maximum walking distance of 2000m identified by the Institute of Highway and Transportation guidance to a range of facilities including work, schools, railway station, medical facilities, library, places of worship and the town centre. It would also improve access to the countryside, urban green space and recreational facilities. The site is within comfortable cycling distance of a diverse range of amenities<sup>25</sup>.
43. Leighton Buzzard railway station is within 1000m of the site from where trains run to a wide range of destinations<sup>26</sup>. The new development would be served by a local bus with a new bus stop proposed and the service extended into the appeal site<sup>27</sup>. The appeal site is therefore in a highly accessible location.

#### *Open space provision*

44. Core Strategy Preferred Options<sup>28</sup> sets out a strategic Green Infrastructure (GI) network for Luton and South Bedfordshire. This is based on the Bedfordshire and Luton Green Infrastructure Plan which shows the appeal site as part of the GI network and as part of the Strategic Urban Fringe

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<sup>25</sup> CD25 Appendix PS16

<sup>26</sup> ID39

<sup>27</sup> ID38

<sup>28</sup> CD21 page 83

Landscape<sup>29</sup> where enhancement and linkages are encouraged. The proposal would provide some 7.3 hectares of strategic public open space, a significant area of GI provision to the north of the site, connecting areas of existing and proposed recreation space, such as Linslade Wood and the Ouzel Valley Park.

45. The provision would also contribute to the Greensand Trust's aims for the area for improved open space and links through key areas, including the Green Wheel which seeks green access routes radiating from the town centre. The site would provide a further element of the wider GI plan in relation to the Leighton Linslade. It would enhance access to the countryside and provide opportunities for outdoor recreation near urban areas, thereby meeting two objectives for the Green Belt set out in PPG2. There is also provision within the planning obligation for a contribution which could pay for a new bridge to be constructed over the canal from the Ouzel Valley park and canal path providing linkage with land to the north. As part of the GI and public open space network the proposed open space would be of significant value and is a considerable benefit in favour of the scheme. It would assist in meeting objectives in EoEP policies ENV1 and ENV3 which seek to protect and enhance GI and natural resources and LP policy R14 which seeks improved access to the countryside.
46. With regard to the proximity of the STW and possible odours and flies, there is no evidence that the use and enjoyment of other nearby open space such as alongside the canal or to the north of the STW are diminished by either of these matters. Also, given the prevailing south westerly winds the appeal site would be affected by odour to a lesser extent than the open land to the north. There is no odour standard for open space and the proximity to the STW would not reduce the weight to be attached to this aspect of the proposals<sup>30</sup>.

*Character and appearance of the area*

47. The appeal site is a small scale, agricultural landscape with semi-derelict farm structures in the north east portion of the site and hedgerows and mature trees showing signs of decline. It is an unremarkable, simple, pastoral landscape. Its value as countryside is limited as it is 'captured' land contained by the neighbouring STW and urban road, rail and housing infrastructure. The southern part where new housing is proposed has an urban fringe character influenced by adjacent urban development and views through to the wider housing areas of Leighton Linslade. The north part of the site has a more rural character with a direct visual relationship to the river valley and floodplain.
48. In terms of its wider character it forms part of the AGLV designation set out in the SP<sup>31</sup>. Although the AGLV policy has been saved, designation was undertaken in the early 1980's and the exact criteria on which the designation was made are not known. The ALGV designation is not being carried forward in the Core Strategy and the weight should be attached to it should be reduced.

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<sup>29</sup> CD26 Mr Kratt's appendix plan Nos 2869\_LO\_24 and 25

<sup>30</sup> CD26 Mr Kratts POE para 15

<sup>31</sup> CD4 SP pages 29 and 30

49. Notwithstanding this, an LCA<sup>32</sup> of the area has been produced by CBC as a tool to inform the LDD process and there is no dispute that this document correctly assesses the character of the area. The site crosses two LCA character areas, the Ouzel Greensand Valley and the Woburn Greensand Ridge. The LCA includes a criteria based assessment of key characteristics for each area and an evaluation of their landscape and visual sensitivity to change<sup>33</sup>.
50. Although the landscape sensitivity of the Ouzel Valley is judged to be high, its intimate and rural character would not be affected by the proposals as the part of the site falling within this area would be public open space. There would be some glimpsed views of the proposed houses from the canal towpath and the riverside footpath along the valley floor; however, the impact on views of the area would not result in any significant change to the key features and elements of the valley.
51. The Woburn Greensand Ridge has been judged to have a high landscape sensitivity to change and moderate to high visual sensitivity to change<sup>34</sup>. The appeal site is a very small part of the much wider designation. It is remotely located from the main Greensand Ridge<sup>35</sup> and its reduced relative ridge height limits the contribution it makes to the wider landscape. Moreover, the site does not enjoy any of the key characteristics identified as providing high sensitivity.
52. The proposed housing would be likely to be located on the southern slope up to the higher ridge of the site. There would be views of the development from a small number of properties on Bossington Lane, Rothschild Road and Plantation Road, and drivers using Stoke Road would have clear views into the western part of the site. This part of the site is already visually relatively well contained as a result of screening by existing housing, landform, tree and hedgerow planting. Considerable landscaping is proposed which would provide extensive mitigation reducing views into the site. Existing landscape features such as topography, protected trees and hedgerows as far as practical within the constraints of development would be retained. Whilst the landscape and views to the site from these local points would be changed, the overall effect on the character and appearance of the area would be minor<sup>36</sup>.

*Living conditions of nearby residents*

53. The proposed houses would be built some 5 -6 metres (m) higher than those on Rothschild Road. Although the layout is reserved, the proposed houses could be in excess of 35m away with an approximately 5m strip of intervening planting. Views would be filtered over time by the planting which would also enhance the privacy between dwellings. The distance apart and the planting would be sufficient to ensure that there are no problems in terms of privacy, outlook or overbearing. This is demonstrated in sections which identify the 20° view cone of an adult occupier of nearby dwellings which show that the houses would be screened by planting and landform. The precise layout would be sensitively handled at the Reserved Matters stage and there would be no

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<sup>32</sup> CD22

<sup>33</sup> CD22 page 8 table 2.3 - definition of sensitivities

<sup>34</sup> CD22 page 58 paras 6A.15 and 6A.16

<sup>35</sup> CD26 Mr Kratt's Appendices, plans no2869\_LO\_04 (landform) and 09 ( landscape character context)

<sup>36</sup> CD26 Mr Kratt's POE para 4.1.8

adverse effect on the neighbours' living conditions. Planting would screen the near access from properties near the access on Bossington Lane.

*Living conditions of the future residents in terms of odour.*

54. The appeal site is adjacent to a STW which is by nature is an odour generating use. There is no statutory limit in England for ambient odour concentrations; however, guideline limits, customs and practice standards have been used in some circumstances. These limits are applied at residential properties and not for open space. All the standards are based on a parameter known as the annual 98<sup>th</sup> percentile of hour mean concentrations which is where 98% of the values are lower than a particular threshold concentration. The odour concentration is measured in odour units per m<sup>3</sup> (OU/m<sup>3</sup>).
55. The Environment Agency Draft Technical Guidance Note IPPC H4<sup>37</sup> indicates that 1 OU/m<sup>3</sup> is the point of detection, 5 OU/m<sup>3</sup> is a faint odour and 10 OU/m<sup>3</sup> is a distinct odour. The water industry believes that a standard of 5 OU/m<sup>3</sup> as a 98<sup>th</sup> percentile would be a level above which odour might be a potential nuisance - an approach that was first accepted at an appeal in 1993<sup>38</sup>.
56. Odour surveys were carried out at the appeal site on 17 and 18 October 2008 and on 8 and 9 September 2009. A dispersion model was used to predict odour concentrations taking into account variables such as meteorological information and summer and winter differences. From the dispersion model a 5 OU/m<sup>3</sup> contour was plotted. From both the 2008 and 2009 data, the 5 OU/m<sup>3</sup> contour is shown to be sited along the boundary of the rear gardens of proposed houses as laid out in the illustrative layout Masterplan<sup>39</sup>. Bearing in mind that layout is a reserved matter, it is clear that development could be sited outside this contour.
57. Odour modelling has its limitations and there are inherent uncertainties in the process. Also the 98<sup>th</sup> percentile means that for 2% of the year it is accepted that odour concentrations exceed 5 OU/m<sup>3</sup>. However, CBC Environmental Health Officer has not received any complaints from residents who live a similar distance away to the proposed occupiers within the last two years and has not objected to the appeal proposals. Anglian Water has received 5 or so complaints over the last 4 to 5 years, but no action has been taken regarding these, and therefore they cannot be considered to be significant. Houses on Bossington Lane are within a similar distance to those proposed.
58. Although Anglian Water prefer a 'Cordon Sanitaire' where some 400m around the site should not be developed for housing, the DEFRA code of practice on Odour Nuisance from Sewage Works does not support this approach. If the STW has to expand capacity in the future there is no reason why odour control methods could not be employed to ensure that odour levels are no greater than existing.
59. There would be some traffic noise from the tankers arriving and departing from the site but the proposed houses would be far enough away for this not to be intrusive.

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<sup>37</sup> CD27 Dr Bull's POE appendix B

<sup>38</sup> CD27 Dr Bull's POE appendix D

<sup>39</sup> CD27 Dr Bull's POE appendix H

*Other points*

60. Archaeology: Trial trenching of the site in December 2008 revealed a concentration of early first century AD to third century AD features in the southern part of the site. In the south-eastern part of the site there was evidence of early to middle Saxon occupation. Remnant furrows of open field system demonstrate that the area was cultivated during the medieval period<sup>40</sup>. CBC's archaeologist advised in a letter of 6 April 2009<sup>41</sup> that the finds do not represent an over-riding constraint on development providing that provision is made to investigate and record remains in advance of the development.
61. *Ecology*: The site has been surveyed for all potentially relevant interests in respect of nature conservation<sup>42</sup>. Those surveys have not identified any constraint to development. The high status badger sett and the majority of the low status setts would be avoided in the sensitive layout of the development. In any event, any work within 30m of a sett may require a licence from Natural England. Bat surveys did not record bats using the western boundary of the site. There would be no adverse impact on the woods. There is no evidence that the woods would become a special protection area. The Masterplan ensures that key commuting and foraging routes for fauna would be maintained and enhanced. Neither CBC nor Natural England raised any objections in this regard.
62. *Status of Bossington Lane*: This is a bridleway and a public right of way. *Contamination*: There are levels of arsenic naturally present on the site and a contamination report has been produced. There are means of mitigation which would ensure that the site is fit for purpose. *Flooding*: Surface water from the site would be dealt with by an adequate drainage system ensuring it would not contribute to any existing flooding problems in the area. A flood risk assessment confirms this and the Environment Agency raise no objections. *Highways and traffic*: the existing highway network has sufficient capacity to accommodate the proposal. CBC do not raise objection on this matter. Contributions within the UU would assist in the promotion of public transport, walking and cycling.

*Very Special Circumstances*

63. The residential part of the proposal would be inappropriate development which would be significantly harmful to the Green Belt. However, the effect on openness and the landscape would be limited by the contained nature of the site and its low grade, unremarkable appearance. There would be changes to the landscape character but these would be localised and not harmful to the wider character of the area. There would be no harm arising from the proposal in terms of any of the other matters raised.
64. The proposed development would contribute to housing in an accessible location in an area where there is a 5 year shortfall in supply of deliverable land. 35% of the dwellings would be affordable units contributing to the shortage of affordable housing in the area. MKSRSRS recognises that being located in a regional growth area is an exceptional circumstance such that it would support the release of land from the Green Belt to enable growth to meet housing targets. These are significant benefits which weigh in favour of

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<sup>40</sup> CD1 Archaeological assessment

<sup>41</sup> CD33 CBC letter

<sup>42</sup> CD1 Ecological assessment

the proposal. In addition the provision of strategic open space, increasing public access and progressing important GI initiatives and policy would be a further benefit of the scheme carrying further weight in favour.

65. The benefits of the scheme are considered to be significant and would clearly outweigh the harm to the Green Belt and any other harm. Very special circumstances therefore exist to justify the appeal proposal.

## **THE CASE FOR CENTRAL BEDFORDSHIRE COUNCIL**

### *Inappropriate development in the Green Belt*

66. The proposed residential development would be inappropriate development in the Green Belt. Although the appeal site is at the urban fringe it would extend the built envelope of Leighton Linlade which is a long established settlement limit, out into the open countryside encroaching into prominent, open and rural area resulting in the loss of open countryside and urban sprawl. This would conflict with two of the purposes of the Green Belt. The location of the STW would not justify development in the Green Belt particularly as it is built at a lower level and has little visible impact in the landscape.
67. Providing public open space would meet some of the Green Belt objectives, but that would not reduce the harm to its purposes and, in any event, this could be achieved without the proposed inappropriate residential development. There would be loss of agricultural land which forms part of an attractive landscape, undermining two land uses objectives for the Green Belt.
68. The proposal would be harmful by way of inappropriateness and by way of other harm as a result of the conflict with two Green Belt purposes. The harm is serious and substantial and should be afforded very considerable weight against the proposal.

### *Housing*

69. CBC and the appellant have agreed the derivation of the minimum 7,400 target over the period April 2009 to March 2014, and the deliverable supply of housing as 6,692<sup>43</sup>. On the basis of these figures there will be an undersupply of some 708 dwellings (0.5 of a year) for this five year period.
70. Over the plan period 2001 – 2009 there is a residual shortfall of 691 which the appellants consider should be added to the 7,400 to give a total target of 8,091. However CBC disagrees, and considers that adding the existing shortfall is unnecessary for the following reasons: Firstly, the documents put forward by the appellant to support its contention that the undersupply should be added do not explicitly require the historic shortfall to be loaded onto the next five years requirement<sup>44</sup>. The circumstances are not clear in the 'good practice' example of Sedgefield District<sup>45</sup> where the shortfall was added to the five year target.
71. Secondly, the EoEP para 5.4 indicates that an upward housing trajectory should be planned for, seeking *first* to achieve the annual average

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<sup>43</sup> ID3

<sup>44</sup> Cross examination of Mr Stacey and set out in ID41 appellant's closing submission

<sup>45</sup> CD18

development rates as soon as possible and *then* to make up any shortfall<sup>46</sup>. Thirdly CBC's approach has been accepted unofficially by the East of England Regional Assembly<sup>47</sup>.

72. Finally, CBC is on target to meet the EoEP target of 26,300 through the implementation of the SUEs and other sites as indicated in the Luton and South Bedfordshire Strategic Housing Assessment (SHLAA)<sup>48</sup>. The SUEs are set out in the Core Strategy preferred options and this follows significant work to identify suitable and sustainable areas for growth in the region. Although there is likely to be a delay in the publication of the Core Strategy because of the objection to the North Hertfordshire SUE<sup>49</sup>, evidence underpinning the Core Strategy indicates that there is a reasonable prospect of delivery ensuring the regional target is met. A planning application has already been received (in 2009) for around 4000 houses on land to the east of Leighton Linlade and this should bring about the early delivery of a SUE.
73. CBC does not therefore accept that it is required to adjust its current 5 year target to meet any immediate deficiency; it is confident that the overall target will be met by 2021.
74. The context to the undersupply is the current economic crisis which is leading to a short term down turn in house building rates and for many years the target was exceeded and has declined only recently<sup>50</sup>. In response to the economic downturn, a delay of 18 months has been applied to some large development sites in the borough and this has affected the number of 'achievable' sites in the area.
75. There is an ample supply of sites which are available and/or suitable and it is only the temporary economic situation affecting their achievability. When the current recessions ends CBC expects the 5 year housing land supply to move back into surplus and this reduces the weight that should be attached to the appellant's argument.
76. With regard to affordable housing all CBC's figures<sup>51</sup> relate to the former South Bedfordshire District Council. In terms of secured funding, from 2006 – 2008, £14.5 million pounds was allocated to deliver affordable housing. For the 2008 – 2011 period, £29.3 million has been attracted from various sources to enable delivery of affordable housing; all of it allocated to specific dwellings on specific sites.
77. Over the period 2006 – 2011 the confirmed and predicted completions would be some 597. The downturn in the market has slowed the provision of affordable units but the figures<sup>52</sup> show that affordable housing completions are rising and expected shortly to exceed pre-recession levels.

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<sup>46</sup> CD2

<sup>47</sup> ID14 and 15

<sup>48</sup> CD8 page 33 and housing trajectory page 37

<sup>49</sup> Mr Fox's evidence

<sup>50</sup> CD25 page 51

<sup>51</sup> ID27

<sup>52</sup> ID27



78. The proposed development's 35% contribution to affordable housing, although welcome, is nothing more that should be provided under EoEP policy H2 and the Council's own guidance on affordable housing. With the market constrained by the recession, any housing brought forward on this site would be in substitution for housing on some other permitted or allocated site. Therefore granting of permission is unlikely to increase the overall affordable housing provision within the district.
79. The site is not in a highly accessible location, with limited bus routes and long walks to the station. Other more sustainable sites should be developed instead of this one which is in the Green Belt. Development of this site would prejudice other development elsewhere on brownfield sites or in SUEs as the housing market is struggling and there are a limited number of buyers. PPS3 paragraph 69 of PPS3 also has to be complied with to the meet the intentions of paragraph 71 and the land is not suitable for development for other reasons.

#### *Green Belt Boundary Review*

80. On two occasions the appeal site has been looked at but turned down for release from the Green Belt. In 1995 for the Review of the local plan the Inspector concluded that the site should be kept open to preserve its rural character. In 2002 for the review of the South Bedfordshire local plan the Inspector concluded that the development on the appeal site would be a visual intrusion into the Green Belt where there was a clear boundary defined by hedgerows and landform<sup>53</sup>.
81. The MKSMSRS<sup>54</sup> indicates that there will be a need for a strategic review of the Green Belt around the built up areas to accommodate the SUE and policy 2 (a) provides for such a review. However, that review is to be undertaken through LDDs and not ad hoc releases of Green Belt land through development control decisions. The appeal site has already been put forward by the appellant as a SUE but was rejected in favour of more sustainable and suitable areas which could make the most of existing infrastructure and have the potential for improvements or extensions to it.
82. The circumstances are different from those referred to by the appellant in the decision at Melton Road, Nottinghamshire<sup>55</sup> where the appeal site had been identified by the Council's own consultants as a sustainable urban extension to which the Secretary of State attached some weight.

#### *Open space provision*

83. Some 7.3 hectares of the appeal site would be public open space linking Linslade Wood to Bossington Lane and the canal, but it would not be of any official wider strategic value. Although the planning obligation makes provision for a new bridge across the Grand Union Canal and this would be of benefit providing links across to the Ouzel Valley, canal towpath and open space to the north, the implementation of a bridge has not been secured. Problems facing its possible implementation are of land ownership, maintenance, long term

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<sup>53</sup> ID13

<sup>54</sup> CD3 para 88

<sup>55</sup> CD Mr Stacey's page 71 and Appendix 28

liability<sup>56</sup>, and it would be a large structure in a sensitive landscape area for which planning permission would be required. Without the bridge the public open space would of little benefit, located in an area where there is already considerable opportunity for public access. The whole site is already identified as part of the Leighton Linlade's GI but public access is not required for it to be included within this designation<sup>57</sup>.

84. Within the public open space the odour concentration will exceed 10 OU/m<sup>3</sup> on the basis of the 98<sup>th</sup> percentile contour. While there is no standard against which odour in public open space can be judged, at this concentration it is clear that a distinct odour would sometimes be noticed. The inlet works where the odour is at its highest concentration and most offensive, particularly during the emptying of tankers, are hard up against the boundary and the odour and operational noise would detract from the potential use and enjoyment of the open space.

*Character and appearance*

85. The site is open pasture, at a very prominent and sensitive location at the entrance to Leighton Linlade, where it marks a clear change in character from town to countryside. It is an attractive piece of open countryside with rows of mature trees hedgerows and from all viewpoints has a rural character<sup>58</sup>. The existing urban edge (Rothschild Road and Bossington Lane) and the adjoining STW are hidden from view as they are built at a much lower level and screened by planting, these land uses are not visually intrusive and the site retains a strong rural character visually well connected to the wider landscape.
86. The site is on a spur of land which slopes down to the Ouzel Valley. The spur of land forms part of the Woburn Greensand Ridge, an elevated landform extending from the south west of Leighton Linlade to the north east and beyond. The site is located at a very important point in the landscape where the River Ouzel cuts through the Greensand Ridge. This is clearly shown on the contour map ID28 and the map in CD26 appendix 2869\_LO\_04. The river cutting has created scarp slopes seen to the north, east and south of the site which rise from the valley floor to the ridgeline, and this is evident on the map contained in CD26 appendix 2869\_LO\_05.
87. The importance of the distinct landforms of the Woburn Greensand Ridge and the Ouzel Greensand Valley has been recognised in their designation as the Greensand Ridge Area of Great Landscape Value<sup>59</sup>. SP policy 7 and LP policy NE3 both provide policy protection against development which would adversely affect the character of the ALGV. In line with advice contained in PPS7 which seeks a more criteria based analysis of landscape character, a Landscape Character Assessment (LCA) has been produced<sup>60</sup> presenting a comprehensive landscape evidence base to support planning and management decisions within the district area which supports the value of the Greensand Ridge.

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<sup>56</sup> ID26 British Waterway's letter of 14.01.10

<sup>57</sup> CD21

<sup>58</sup> CD26 Appendix 2869\_LO\_10

<sup>59</sup> CD4

<sup>60</sup> CD22

88. Although the appeal site is at the urban fringe it nevertheless displays key characteristics of the Woburn Greensand Ridge and Ouzel Greensand Valley document identified in the LCA: The fields of pasture, hedgerows and trees form a diverse mosaic, and the prominent ridge forms an important visual horizon and vantage point over the landscape both typical characteristics of the Woburn Greensand Ridge. The rural character of the valley sides sloping down to the canal creates a small scale, intimate character, a key feature of the setting of the Ouzel Greensand Valley. The LCA indicates that generally these landscape features are highly sensitive to change.
89. In an area which is highly sensitive to change and vulnerable to urban pressures, the loss of the mosaic of pasture landscape and the introduction of urban development on a prominent ridgeline would be very damaging. The nature of this change would degrade and erode the landscape character area of Woburn Greensand Ridge at the important point where it meets the Ouzel Greensand Valley. The loss of prominent open space just outside the town, where the rural land begins would take away a landscape which is an important local characteristic.
90. 199 houses between 2 – 2.5 storeys in height would be built on the raised ground within the site, accompanied by roads, street lighting, domestic lighting, new roundabout entrance and signage and the effect of this development on the landscape and visual character of the area would be considerable. The visual changes would be seen from Stoke Road, Bossington Lane and the rear of properties in Rothschild Road changing from open pasture to urban development. Its elevated position in the landscape means that from all local viewpoints the magnitude of change would be major. At this high point in the landscape night time light pollution would add further to the visual harm to the area.
91. Middle distance views from the canal towpath and Ouzel Valley footpaths would be changed as there would be views of several houses breaching the ridgeline damaging its more intimate character. It is evident from photographs in CD26 Appendix 2869\_LO\_12 that the residential development, particularly the housing on elevated land would be visible from middle and longer distant views. New planting may take many years to be effective and it is not known how adequate it would be mitigating the adverse visual effect, both locally and from further away. The proposal would be contrary to the aims of PPS7 to protect the countryside and SP policy 7 and LP policies NE3 and BE8 (i, ii and iv) which seek to protect the AGLV and local character.

*Living conditions of nearby residents*

92. As a result of the topography on the site, the development has a very poor relationship with the surrounding development. There are sharp level changes between the proposed houses and the existing residential development and in some places such as the southern boundary there is a lack of boundary planting to provide screening<sup>61</sup>. The relationship of Nos 33 – 57 is particularly acute by virtue of the limited garden depth.

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<sup>61</sup> CD26 appendix 2869\_LO\_05 and sections 2869\_LO\_21 and 22

93. Whilst it is accepted that the separation distances are greater than those for typical development, the change in levels will make the proposed development very dominant and overbearing. A buffer zone and new landscaping is proposed but it would not have the effect of concealing the development for many years. There is the potential for the development to be overbearing and for new occupiers to overlook the rear gardens and houses on Rothschild Road. The amenities of the nearby residents would not therefore be safeguarded and the proposal would be contrary to LP policy BE8 (vii) in this regard.

*Living conditions of the future residents*

94. The STW is operated by Anglian Water. It is an important and necessary operation serving in excess of 35,000 people in the area. The STW is an odour generating use where there exists considerable potential for conflict between the STW and the new residential development, either now or in the foreseeable future. Some water companies use the buffer zones or 'cordon sanitaire'. Anglian Water suggests 400m as an appropriate buffer zone.
95. The appellant seeks to define any buffer around the STW by reference to the annual 98<sup>th</sup> percentile, 5 OU/m<sup>3</sup> concentration contour. However, the 5 OU/m<sup>3</sup> is not a statutory threshold of acceptability and even at this concentration it does not mean that there would not be complaints. It is not the point beyond which odour would be annoying and with a 98<sup>th</sup> percentile contour there would still be 2% of the year (175 hours) when the odour would exceed the 5 OU/m<sup>3</sup> concentration and that may be by a factor of up to 10-20 times<sup>62</sup>.
96. The two odour samples taken in Oct 2008 and Sept 2009 show considerable variability in the results; although the samples were not taken in the summer when odour levels are at their greatest. The adjustments made by the appellants are based on highly subjective assumptions and yet have a considerable effect on the model results. Meteorological data is another variable which can influence the model results.
97. The uncertainty of the predictive modelling and the subjectivity associated with both input data and interpretation of the results therefore limits its use in accurately predicting problems associated with odour arising from the STW. In this case the appellant's 5 OU/m<sup>3</sup>, 98<sup>th</sup> percentile contour leaves no margin for error as it lies directly on the northern boundary of the housing development<sup>63</sup>.
98. Houses in Bossington Lane although closer to the STW than the proposed housing are further away from the modelled 5 OU/m<sup>3</sup> contour due to their location away from the inlet works (where the odour is at its greatest) and the prevailing wind direction<sup>64</sup>. Despite this, Anglian Water has received some 5 to 6 complaints since 2005. The placing of housing development so close to the edge of the STW is likely to lead to odour annoyance and potential for complaints, calls for Anglian Water to change its practices or its plant.
99. The future operation needs of the STW should also be taken into account. The STW may increase its working hours from July 2010<sup>65</sup>. Also, the STW is

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<sup>62</sup> Dr Bull's cross examination

<sup>63</sup> CD27 Appendix H1

<sup>64</sup> CD27 Appendix H1

<sup>65</sup> Mr Hackney's Evidence in Chief

treating more than its design capacity and it is likely to have to be upgraded and expand capacity over the next 5 – 10 years to meet sewage demands from the planned growth of Leighton Linlade. Future upgrades and extensions would be likely to intensify operations at the site and although Anglian Water would aim not to increase odour levels where possible through odour control methods, it poses a further risk to the future of the plant and to the living conditions of the residents proposed houses.

100. The noise of tankers should also be taken into account. These access the site from Stoke Road from where there is a significant slope. 5 -6 tankers arrive per day and the noise of these large vehicles would be intrusive to the residents of the new development. It would be contrary to LP policy BE8 (vii).

*Planning obligation provisions*

101. The planning obligation is in the form of a Unilateral Undertaking and makes provision for a number of matters which would be expected of any housing development and which simply mitigate the social effects and impacts of the development.

*Very Special Circumstances*

102. The harm by reason of inappropriateness and other harm to the Green Belt purposes should be afforded considerable weight. In addition there is other harm resulting from the negative impacts of the proposal to the landscape character, the residential amenity of neighbours, the living conditions of the future residents from potential odour annoyance, the potential for complaints which may undermine the future operation of the STW. The proposal would be contrary to the aforementioned policies.
103. Set against this, little weight should be placed on the 5 year shortfall, affordable housing provision, as there is no urgent need to build on the Green Belt to meet EoEP housing targets for 2021. All of the Green Belt around Leighton Linlade would be at risk if this were the case. Limited weight should be given to the proposed public accessibility or enhancement of Green Infrastructure as it comes at the expense of the loss of open land which has landscape value.
104. On balance the harm would significantly outweigh any benefits and very special circumstances would not exist to justify the proposal.

**THE CASE FOR THE CAMPAIGN TO PROTECT RURAL ENGLAND<sup>66</sup>**

105. The material points are:
- Plan led growth through the provision of SUE with associated improvements to infrastructure is the sustainable approach as advocated in PPS3. The transport, community and employment infrastructure of Leighton Buzzard has been under stress for several years and the proposal would place further strain on the situation. The housing shortfall is as a result on market conditions and will be remedied in the long term by provision of the SUEs.
  - The continuing importance of this part of the Woburn Greensand Ridge as an ALGV has been confirmed in its inclusion in the LCA. The site has a

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<sup>66</sup> CD32 CPRE proof of evidence

considerable landscape value. The proposed residential development would have a damaging effect on the wider landscape evident in short and longer distant viewpoints. The proposed roundabout at the entrance would be constructed at the crest of Stoke Road, with urbanising lighting columns and signage visible from the open countryside flanking Linslade Wood.

- The purpose of the Green Belt review, set out in the MKSMSRS is to provide Leighton Linslade with scope to increase its sustainability and make an appropriate housing contribution. The preferred location is east of the town and it follows that the focus for the review of the Green Belt lies to the east of the town not the North West. A review to the east makes it all the more important that the integrity of the Green Belt around the rest of the town is maintained.
- Since the open space would adjoin a STW and be subject to intermittent pervasion by unpleasant odours, the benefit offered is of extremely limited value. The open space is no more than a buffer zone to mitigate the effect of odour emissions on future residents of the development. The open space would not be sufficient to shield the built development from odour emissions being inside Anglian Water's desired 400m 'cordon sanitaire'.
- The proposal would have a poor relationship with nearby residents adversely impacting on their amenity. For these reasons the proposal would conflict with LP policy BE8 (i), (ii), (iii) and (vii)<sup>67</sup>. The site is in the Green Belt and the appellant's case of 'very special circumstances' for overriding this is not made out.

#### **THE CASE FOR THE RESIDENT'S ACTION GROUP<sup>68</sup>**

106. The material points are:

- The site is part of an area of natural beauty with an ancient pond and wildlife interest. The proposal would completely change the character, ruining views and forming an urban hilltop development. The area is classified as ALGV with all existing buildings to the north and east of the site hidden from view. Strictly enforced planning has consistently been to disallow any applications which fail to preserve the landscape value of the area. Government policy is to reuse brown field land and not sacrifice precious open land as proposed with the appeal scheme.
- There is already a bridge in Globe Lane to access the canal, in a countryside setting, without walking through the proposed housing estate, past the sewage inlet and the public open space and increased access would not be an advantage to the town. The existing open countryside is well used and there is already good access.
- Householders in The Martins experience strong odours from the STW and sometimes cannot sit outside or open windows. The proposed houses would be closer to the sewage with methane gases and arsenic possible in the area, the public open space including children's playground could be contaminated. The scheme would mean an extra 800 or so new people whose sewage would

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<sup>67</sup> CD5

<sup>68</sup> ID16, ID17, ID19, ID20

make odours worse. The arsenic is hazardous to health is naturally occurring and therefore cannot be removed.

- The land is elevated and the site can be seen from the rear of properties on Rothschild Road. Lighting, including security lights would be intrusive. The existing residents will suffer loss of privacy and noise and light pollution. Planting would take a long time to establish and in itself could cast a shadow over gardens to the south.
- Surface water already floods The Martins. The proposal would increase flooding in this area. The appellant's flooding report does not address the effect on The Martins or Bossington Lane. Pipes and manholes for foul water are on private property. Installation of new pipes will cut of access and cause problems.
- The impact of an additional people will impede security and access to homes on Bossington Lane and The Martins. There is no public lighting on these roads, they are narrow, have no pavements and are already hazardous. The access of Stoke Road is dangerous coming at the brow of a hill.
- There is no employment, shops or schools within easy walking distance. The station is 20-25 minutes walk away. This is the wrong place for new housing, including affordable housing.
- Bossington Lane has been a private road for over 210 years and not a bridleway or right of way. It has been maintained by the residents for over 40 years and its use by proposed residents would increase maintenance liabilities for the existing occupiers. As it is private the developers have no right of access or rights to use the drainage system.
- The proposal would affect wildlife in the area, particularly Bluebell Wood (Old Linslade Wood). The roundabout is to be constructed very close to the wood where bats forage. Light pollution will affect wildlife and the new housing development will restrict vital wildlife corridors for hunting and foraging.
- There is a threat to the archaeology of the site from the proposed development. This is a rare archaeological site where it may be possible to study a Late Iron Age farmstead to a Romanised Farmstead including important opportunities for discovery of metal working from Late Iron Age, Roman and Saxon periods.
- It would set a damaging precedent in the area, generating the justification for further built development on adjacent land. It is an appropriate development in the Green Belt. If housing targets and shortfalls in the 5 year supply were 'special circumstances' to build in the Green Belt then all house builders in the area would be able to develop in the Green Belt on that basis.

## **THE CASE FOR THE INTERESTED PARTIES**

107. The Leighton Buzzard Society made the following representations<sup>69</sup>:

- Inappropriate development

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<sup>69</sup> ID23

- Premature consideration of housing development
- The appeal site is of landscape value and in the Green Belt - all options should be considered through LDDs to find the least damaging sites.
- Housing shortage as a result of market conditions
- The appeal site is important in the Green Belt. It contains the town defining its limits which will just spread further and further if unrestricted.

108. The Leighton Buzzard Ramblers made the following representations<sup>70</sup>:

- The proposal would create a precedent that would lead to further infringements and developments
- It is important to preserve this area for future enjoyment and use and pressures mount from SUEs to the east and south of Leighton Linlade
- Loss of delightful views from the Greensand Ridge Walk or emerging from Linlade Woods
- A new bridge is not necessary for ramblers

109. British Waterways (BW) made the following representations<sup>71</sup>:

- BW own and maintain the Grand Union Canal and are concerned about increased liabilities resulting from a new bridge.
- Reinstating the swing bridge would not be desirable
- A new bridge would require rights over the canal which would require payment

110. The Greensand Trust made the following representations<sup>72</sup>:

- The Greensand Trust is a charity interested in the development of access and open space for people and wildlife in the area. We provide the secretariat for the Ouzel Valley Park partnership, a group including Central Bedfordshire and Leighton Linlade Town Councils, British Waterways, the Environment Agency and Sustrans.
- A new bridge would be desirable to link open space in the area. If this is inappropriate Ouzel Valley Partnership has a number of open space and access projects in close proximity and the developer's contribution will be able to be directed to wider developments in the area.

111. The Friends of Linlade Woods made the following representations<sup>73</sup>:

- Old Linlade Wood is managed by Central Bedfordshire Council and The Greensand Trust
- Light pollution and the reduction in Green Corridors would impact on the fauna of Linlade woods especially the bats

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<sup>70</sup> ID24

<sup>71</sup> ID26

<sup>72</sup> ID30

<sup>73</sup> ID36



- The woods may become an SPA or SCA under the Habitats Directive.

112. A letter was received from Andrew Selous MP making the following representations<sup>74</sup>:

- The application site is unsuitable as there is significant building to the south and future growth to the east
- The town is already gridlocked with traffic
- very few local jobs
- No upfront infrastructure being provided
- no local mandate to determine the outcome of the appeal

113. Other interested parties raised the following points either at the Inquiry or in written representations<sup>75</sup>:

- The appeal site is unsuitable
- Already significant housing proposed to the south east of the town
- Town already gridlocked with traffic; increased congestion
- There is no up-front infrastructure being provided
- The site is not in a sustainable location as there are few local jobs available and no nearby facilities
- Loss of views
- Loss of trees
- Loss and damage to area highly prized and of special significance for its landscape
- Loss of wildlife habitat
- Loss of Green Belt/ inappropriate development
- Loss of important site for archaeology
- Increased risk of flash flooding to nearby housing
- Noise, machinery odour and flies from STW would make a poor open space and living environment
- If housing targets and shortfalls in the 5 year supply were 'special circumstances' to build in the Green Belt then all house builders in the area would be able to develop in the Green Belt on that basis.
- It would not conform to special strategy set out in EoEP or emerging LDDs
- The adjacent area will be vulnerable to further development

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<sup>74</sup> CD33

<sup>75</sup> CD32

- Height of the land would make the development overbearing which would have a major impact on the nearby occupiers
- No justification for development in the Green Belt
- MKSMSRS para 14 identifies cultural needs and PPS1 and PPS3 support for building communities justify the need for a community house

## CONDITIONS

114. CBC prepared a list of suggested conditions which is ID2. The conditions on the list and other relevant conditions were discussed at the Inquiry. The appellant generally agreed with the conditions. Should the Secretary of State be minded to grant planning permission, the Schedule of Conditions appended to this Report at Annex A comprises a list of conditions that I consider should be imposed. The conditions are re-worded in places to comply with Circular 11/95: The Use of Conditions in Planning Permissions, relevant national policy documents and CLG guidance.
115. Conditions relating to the submission of timing and details of the reserved matters are reworded to comply with the provisions of the Circular (Conditions 1-3). The location of the open space and residential development are fundamental elements of the appeal scheme, and these are set out on the Parameters plan. A condition restricting development to the areas shown would therefore be reasonable and necessary (Condition 4). Details of the access from Stoke Road including the footpath and cycleway would be necessary to ensure a safe point of access (Condition 5). There are significant level changes on the site and details of levels on the proposed buildings would be necessary to ensure a satisfactory appearance and relationship between buildings (Condition 6).
116. Details of materials would be necessary in order to achieve a satisfactory appearance. A condition requiring details of boundary treatment is important to ensure that the proposal relates in a satisfactory way to the adjacent land uses (Conditions 7 and 8). Details of the internal roads and method of surface water disposal would be important to ensure adequate access within the site (Condition 9). Conditions requiring details of foul and surface water drainage, including sustainable drainage systems their ownership and maintenance, would be necessary to reduce the risk of flooding within the site and to adjacent land and to ensure adequate disposal of foul water where there are significant level changes and some private drains. The infiltration of pollutants or hazardous chemicals into watercourses would be contrary to other legislation designed to prevent pollution. However, it would be sensible to prevent it happening in the first place by designing a suitable SUDs system. I have amalgamated the conditions suggested by the Environment Agency and CBC's drainage condition<sup>76</sup> for the purposes of clarity (Conditions 10 and 11).
117. The works likely to take place on site would lead to lorries leaving with mud and debris on their wheels. Highway controls would only pick this up once the dirt is deposited on the road. In order to prevent this situation and as the site has considerable level changes and is a large housing development a condition requiring wheel washing facilities would be reasonable (Condition 12). A waste

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<sup>76</sup> ID2 conditions 9 and 21

audit scheme would be important to ensure a satisfactory refuse and recycling facilities and collection and to ensure a satisfactory appearance (Condition 13). Details of how the proposed development would cater for the disabled, mobility and visually impaired would comply with the aims of PPS1 and PPS3 seeking inclusive environments (Condition 14). Details for the identification and protection of existing trees at the site would be important to protect the character of the area (Condition 15). The site is an area of archaeological interest and a condition requiring a programme of archaeological work and investigation would therefore be necessary (Condition 16).

118. Details for management of all the landscaped areas, except private gardens, would be important to ensure that any proposed landscaping is effective (Condition 17). The site contains naturally occurring arsenic and is adjacent to a STW and may contain further contaminants. Decontamination conditions would be appropriate to protect the health of future occupiers, the water regime and wider environment. I have had regard to CLG model conditions, the Planning Inspectorate's consultation conditions and CBC's suggested conditions for contaminated land. I have adjusted the wording where appropriate to ensure the conditions are suitable for the site, precise and enforceable (Conditions 18 and 19).
119. Conditions requiring a scheme for a further wildlife survey, necessary mitigation and for enhancement and/or construction of the ponds would safeguard biodiversity (Conditions 20 and 21). A condition requiring the development to achieve Level 3 of the Code for Sustainable Homes would be appropriate to comply with the aims of PPS1 for sustainable development (Condition 22).

### **PLANNING OBLIGATION (ID11)**

120. The planning obligation is in the form of a Unilateral Undertaking. It relates to affordable housing, a community house, public open space, education, green wheel/bridge projects public art and highways and transport.
121. *Affordable housing*: The provision of 35% of the units to be affordable housing with the 70:30 split between rental and intermediary units would be ensured through the UU. This provision would be necessary to ensure a balanced and mixed community in accordance with local and national policy and the CBC's SPD for planning obligations<sup>77</sup>.
122. *Education*: Details of education demands and a method of calculating contributions are set out in the SPD. CBC confirmed at the Inquiry that there are insufficient places at the lower school in the vicinity to meet the demands of the proposal. The amount of £175,000 would be reasonable and would be used towards education provision serving the development. It would meet the aims of EoEP policy SS2 seeking sustainable communities.
123. *Community House*: The UU makes provision for one of the proposed dwellings to be used as a temporary community house during the construction of the housing development and until 6 months after completion. It would be leased at a peppercorn rent to Voluntary and Community South Bedfordshire. A running cost of £15,000 would be paid every 6 months. The SPD indicates that

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<sup>77</sup> ID37

the purpose is to provide a temporary community meeting point for residents to socialise, access information and from where emerging groups can operate.

124. The SPD recognises that this can be provided in a number of ways but there is no evidence that other options for the facility have been looked at or what other facilities are available close to the appeal site. CBC's suggested option of a community house follows its adoption at a recent large scale development elsewhere, but the size of that development is unknown. Although the SPD suggests an expected provision of 1 x 200m<sup>2</sup> for 100 – 1000 new homes, it advises that there will be an individual assessment of needs and contributions for schemes. The proposed community house would be some 125m<sup>2</sup> containing 7 rooms and no assessment has been put forward justifying this amount of space. Although the community house would assist in meeting community infrastructure objectives of the EoEP policy SS1<sup>78</sup> there is no justification of the size of unit or that it would be fairly and reasonably related to the proposed development. It would therefore fail the tests set out in the Circular.
125. *Public Open Space*: The UU makes provision for the public open space with a maintenance period to ensure establishment of the public open space works and once established an offer of transfer of ownership to the Council. The weight to be attached to this element of the proposal is addressed in the conclusions.
126. However, the commuted sum (set out in Appendix 4 of the UU) to pay for 20 year maintenance of the open space would not comply with Paragraph B19 of Circular 05/2005 which indicates that where an asset is intended for wider use subsequent maintenance should normally be borne by the body to which the asset is to be transferred.
127. *Bridge/Green Wheel projects*: The UU makes provision for £350,000 to be held by CBC for The Greensand Trust or The Ouzel Valley Park Partnership to use for a new bridge or in local Green Wheel/ open space projects in the area. The amount of money has been arrived at as a result of detailed costs for a new bridge<sup>79</sup>. There are no details of the facilities or projects upon which the money would be spent if the bridge is not provided, but the UU indicates that if within 6 years the money has not been used it would be returned. The wording of the UU would ensure that the money was spent locally on facilities which would be used by new residents. As with the commuted sum for open space, a maintenance cost of £15,500 would not comply with Circular 05/2000. Whether it would mitigate the impacts of the proposal or compensate for the loss of land to residential development is addressed in the conclusions.
128. *Public Art*: The SPD advises that this should be provided on site or for a known opportunity for provision in the locality to which the contribution would be earmarked. This is not the case as there are no identified projects. It is not therefore clear that the £10,000 contribution would be directly related to the proposed development and it would not meet the test of the Circular.
129. *Highways and Transport*: A £50,000 contribution would be made toward footpath and cycleway improvements to Bossington Lane, Linslade Woods and the cycle route to Leighton Buzzard Station. These would be used by new residents and would be necessary to meet their additional requirements. The

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<sup>78</sup> CD2

<sup>79</sup> ID35

costs have been justified in this respect. A contribution of £196,791 would be made towards improved public transport by way of an improved bus service. The costs have been justified and this would be necessary to meet the additional requirements of the proposed residents. Travel packs and the role of travel plan co-ordinator would be necessary to ensure compliance and monitoring of the travel plan. These elements would be supported by the SPD. EoEP policies T9 and T13 and would meet the tests of the Circular.

## CONCLUSIONS

*The numbers in square brackets refer to earlier paragraphs in the report*

### Preliminary Matters

130. Three plans accompany the planning application: The Parameters Plan sets out the areas for residential development and public open space, and the position of the access. It is the appellant's intention that consideration of the appeal takes place on the basis of these Parameters and I afford this plan material weight. The Masterplan is illustrative only and the details contained within it relating to layout and landscaping carry little weight. The site plan sets out the site boundaries. The plans are contained in CD1.

### Conclusions

131. The main considerations on which my recommendation is based are:

- Issue 1: Whether the proposal would be inappropriate development in the Green Belt and whether there would be an effect on its openness (reason for refusal 1).
- Issue 2: The effect of the proposal on the character and appearance of the area (reason for refusal 2).
- Issue 3: Whether the proximity of the residential development to the STW would affect the living conditions of the future residents with regard to odour or to the operation of the STW with regard to complaints (reason for refusal 3).
- Issue 4: Whether the proposal would affect the living conditions of nearby residents with regard to outlook and privacy (reason for refusal 4).
- Issue 5: Whether the proposal would assist in meeting national housing policy objectives having regard to the supply of housing.
- Issue 6: Whether the provision of open space and access would assist in meeting national policy objectives for the countryside.
- Issue 7: Other matters – Whether there would be an effect on archaeology, ecology, the status of Bossington Lane, flooding, contaminated land and traffic and transport.
- Issue 8: Whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development (reason for refusal 1).

**Issue 1: Whether the proposal would be inappropriate development in the Green Belt and the effect on the openness of the Green Belt (reason for refusal 1).**

132. Paragraphs 3.1 and 3.4 of Planning Policy Guidance Note 2: Green Belts (PPG2) records that, unless very special circumstances exist, the construction of new buildings inside the Green Belt is inappropriate. As the proposed housing development would be built on open land and it would not fall within the description of appropriate development inside the Green Belt as set out in PPG2,

it would therefore be inappropriate development which would be harmful to the Green Belt.

133. Keeping land open in order to prevent urban sprawl and help to protect encroachment into the countryside are important purposes of national Green Belt policy. Regardless of its location at the urban fringe and the location of surrounding infrastructure, the appeal site is open pasture which forms part of the countryside outside the town limits of Leighton Linlade. The proposed housing development would extend the built up area, beyond a clearly defined Green Belt boundary encroaching into the open countryside and forming urban sprawl. The replacement of open land with buildings would inevitably reduce the openness of the appeal site. The harm to the Green Belt carries significant weight against the proposal. [29, 30, 66, 67, 68, 80]

**Issue 2: The effect of the proposal on the character and appearance of the area (reason for refusal 2).**

134. The appeal site is a substantial area of countryside which from all viewpoints has a rural appearance. The appeal site is located at an important point in the landscape where the Ouzel River cuts through the Woburn Greensand Ridge. This gives the site a distinct landform with an elevated spur across the central part which slopes down toward the river valley. Although the valley serves to isolate the site from the main Woburn Greensand Ridge to the north, it nevertheless forms part this important landscape feature. [51, 85, 86]
135. The elevated land at the site is at a lower ridge height than other parts of the Woburn Greensand Ridge and it lies at the urban fringe. However, the prominent ridge and mosaic of fields at the appeal site reflect the wider appearance and landscape characteristics of this character area. The Ouzel Valley is a particularly distinct and pretty area with a small scale, rural character. The sloping sides of the appeal site forming part of its intimate setting and contribute to the form and appearance of the valley. [51, 88]
136. The landform and associated areas of character of the site are recognised in its inclusion within the Greensand Ridge Area of Great Landscape Value (AGLV). Although this designation is not to be carried forward in LDDs, the significance of the area is recognised in the LCA undertaken in line with advice in PPS7 about criteria based character assessment. There is no doubt that the appeal site forms an unspoilt part of a notable wider landscape area valued for its distinct physical and visual qualities. [48, 49, 87, 88]
137. The residential development would be built on the elevated spur of land onto a prominent ridgeline and there would be a loss of the mosaic of fields of pasture. These areas are highly sensitive to landscape change and although the underlying landform would be preserved the loss and damage to these important characteristics would be significantly harmful to the distinct landscape of the Woburn Greensand Ridge. [52, 89]
138. New buildings on the elevated land, a large vehicular access into the site, lighting and all the activity associated with housing would inevitably change the appearance of over 5 hectares of the site from rural to urban. The prominent location of the site at the entrance to the town and above other nearby development would make the character change clearly visible from Stoke Road and Bossington Lane. From a local perspective this visual change would be major and would alter to its detriment the rural appearance of the area. A few

of the proposed houses on the ridge would be visible from the towpath and River Ouzel footpaths where they would appear as unfortunate intrusions into the intimate rural landscape of the Ouzel Greensand Valley. Any new planting even in wide bands would take many years to have any screening effect and would not overcome the loss of the rural landscape. [50, 52, 90, 91]

139. The appellant argues that the STW and transport infrastructure appear on plan to contain the site to the north and west. However, the STW has little impact in the landscape as it sits on lower ground and has few large scale buildings, and the roads and railway are not significant features in the landscape. [47, 85]
140. I conclude that the loss of the rural landscape and damage to the Woburn Greensand Ridge and Ouzel Greensand Valley as part of an AGLV would be harmful to the character and appearance of the area. The proposal would fail to comply with the aims of PPS7 which seeks to maintain the countryside as an important natural resource, SP and LP policies 7 and NE3 respectively which seek to protect the character of the AGLV, and to LP policy BE8 (i, ii and iv) which aim to protect local character. The damage to the landscape would weigh considerably against the proposal.

**Issue 3: Whether the proximity of the residential development to the STW would affect the living conditions of the future residents with regard to odour and noise or the operation of the STW with regard to complaints (reason for refusal 3).**

141. *Future residents:* The appeal site is located next to a STW which is an odour generating use. There is no statutory limit for odour concentrations and whilst Anglian Water favours a 400 metre buffer zone, the DEFRA code of practice on Odour Nuisance from Sewage Works supports a more site specific approach. Odour modelling undertaken by both parties identifies contours where the concentration of odour is likely to be at or below a particular level for 98% of the year. The appellant indicates that a standard of 5 OU/m<sup>3</sup> as a 98<sup>th</sup> percentile would be a concentration level above which odour might be a potential nuisance – and that approach seems reasonable and has been accepted at a previous appeal. [54, 55, 58, 95]
142. It is clear from the appellant's modelling that 5 OU/m<sup>3</sup> contour sits just at the margin of the proposed residential development. The 98<sup>th</sup> percentile contour indicates for 2% of the year (175 hours) the odour exceeds this concentration sometimes by a factor of 10 – 20 times. It is likely on this basis that there would be times at which odours would be annoying for future residents but it is reasonable to assume that some occasional annoyance might be expected if a resident chooses to live close to a STW. [56, 96]
143. However, there is a dispute over the data with regard to summer maximum temperatures but it is accepted by both parties that odour modelling has limitations and there are inherent uncertainties in the process. Moreover although some 5 -6 tankers arrive each day at the moment, this could increase at any time adding further to the potential for odour annoyance and this would be outside the control of future residents. With the contour so close to the residential boundary there is little margin for error to ensure that the future residents living conditions would not be regularly and unacceptably affected by odours. [57, 97]



144. The presence of houses on Bossington Lane would not justify the proposals as the sewage inlet (where the greatest smells occur) is located close to the site boundary and the effects to future residents would be greater than to existing residents in Bossington Lane. Also the odour modelling shows a lower concentration at the 98<sup>th</sup> percentile contour along Bossington Lane where odours would be expected to be reduced. [57, 98]
145. I conclude that evidence of no harm is not convincing and there could be a risk of regular and unacceptable odour annoyance to such an extent that it would detract from the future resident's living conditions. In this respect the proposal would conflict with PPS1 and PPS3 which seek high quality residential environments and from LP BE8 (vii) which seeks to protect resident's amenities. This aspect of the proposal would carry some weight against the proposal.
146. Regarding noise, the tankers are noisy when they drive up the access road which slopes up considerably out of the site. However, no evidence of noise levels was put to the inquiry. The tankers would be heard against the general level of noise from the busy Stoke Road and they would be some distance away from new houses. I do not consider that there would be any negative effect on future residents arising from this aspect of the proposal. [59, 100]
147. *The risk to the future operation of the STW:* The introduction of more housing in the area in close proximity to the STW could increase the risk of complaints about odour. However, CBC's Environment Health Officer has received no complaints in the last two years and although 5 or so complaints have been received from local residents since 2005, Anglian Water has taken no action regarding these. There is no evidence that even if there were a rise in the number of complaints any threat would be posed to the operation of the STW. If the STW were to be expanded and upgraded odour control methods could be employed at that stage to ensure that the odour risk is not increased. There would be no harm arising from this aspect of the proposal. [58, 99]

**Issue 4: Whether the proposal would affect the living conditions of nearby residents with regard to outlook and privacy (reason for refusal 4).**

148. *Nearby Residents:* The proposed houses would be at a higher level than those in Bossington Road and Rothschild Road. However the layout of the housing showing their detailed height, siting and orientation, their garden area and boundary treatment is yet to be determined. Notwithstanding my comments regarding visual effect and changes in character, I am satisfied that the new houses could be sited some distance away with intervening gardens and fences to ensure that there would be no immediate loss of outlook or privacy to the occupiers of existing nearby houses. [53, 92, 93]
149. There would be a cycle and pedestrian access route leading onto Bossington Lane quite close to existing houses. Whilst there would be more people using the road, it is already used as pedestrian and vehicular access to several properties. The siting of the footpath would be determined at the later stage and could be separated from the houses by landscaping and boundary treatment to ensure that the resident's privacy is protected. There is already unrestricted access to Bossington Lane and The Martins and I see no reason why the proposal would increase the risk of crime in this area. The proposal would not be contrary to LP policy BE8 (vi) which among other things seeks to

protect resident's amenities. There would be no harm arising from this aspect of the proposals. [53, 106, 113]

**Issue 5: Whether the proposal would assist in meeting with national housing policy objectives having regard to the supply of housing.**

150. The appeal site lies within the strategy area of Luton/Dunstable/Houghton Regis and Leighton Linlade where the EoEP indicates that significant growth should take place to provide sustainable development. The EoEP and MKSMSRS set a housing target of 26,300 dwellings for the strategy area. According to the trajectory, 7,400 houses would be required for the period Apr 2009 – Mar 2014. It is accepted by CBC and the appellant that there is insufficient deliverable housing to meet this target. [31, 32, 69]
151. However, the 5 year target figure of 7,400 fails to take into account the previous shortfall of 691 houses over the plan period Apr 2001 – Mar 2009. There is no definitive policy advice as to whether the shortfall should be included, but some weight should be attached to CLG Chief Planner's letter of 12 May 2009 and advice contained in CLG's Land Supply Assessment Checks which indicate that any historic undersupply should be added to the future 5 year requirement. Adding the undersupply of 691 would take the housing target to 8,091 rather than 7,400. [32, 33, 70]
152. A figure of 6,692 has been agreed for the provision of deliverable housing during the 5 period Apr 2009 – Mar 2014 for the strategic area. If a target of 8,091 is used this would give a 4.1 year supply of deliverable housing. This would leave a deficit of some 1,399 dwellings. Even if the 7,400 target were used the shortfall would equate to some 708 dwellings, 4.5 years supply. [34, 69, 70]
153. It is likely that the supply is fluctuating because of market conditions and that long term plans are being put in place for SUEs and I address these factors in the weight to be attached in Issue 8 at paragraph 168 of the report. Notwithstanding this, PPS3 paragraph 71 makes it clear that in circumstances where a 5 year supply cannot be demonstrated proposed housing development should be considered favourably. The current 5 year shortfall in the supply of housing is therefore an important material consideration. [34, 38, 39, 71, 72,]
154. Predicted and confirmed figures for deliverable affordable housing from 2006 – 2011 indicate that some 597 units would be provided over this period for South Bedfordshire District. This would be considerably short of the target of 199 per year, the assumed rate of affordable housing necessary to meet housing needs up to 2010. The rate of 199 affordable units has not and would not be met up to 2010 and as there are 2237 entries on the April 2009 housing waiting list (of which 501 seek housing in Leighton Linlade) it follows that a shortage of affordable units also exists in the area. [35, 36, 76, 77, 78]
155. The appeal proposals would not prejudice other housing in the area including the delivery of the SUEs, as the EoEP housing target is a minimum, indicating that additional housing over and above this amount should not be restricted. Furthermore, the proposal would be too small to undermine the strategic approach to the provision of SUEs. The appeal site is located at the edge of a town where there are good facilities and services. Although the bus service is limited, the station is within some 1000m and facilities are being improved to

enable cycling, walking and public transport. It would therefore be reasonably accessible site. No harm would arise on these grounds. [40, 42, 43, 79]

156. The proposed residential development would provide up to 199 new houses of which up to 69 would be affordable units which could be delivered over a phased period from 2011 to 2015. I conclude that as this would contribute to housing targets in an area identified for housing growth where there is a shortfall and this is a significant material consideration in favour of the appeal proposals. [40, 41]

**Issue 6: Whether the provision of strategic open space and access would assist in meeting national policy objectives for open space and the countryside**

157. Some 7.3 hectares of open land at the appeal site would become public open space with footpaths leading from Stoke Road and Bossington Lane towards the Grand Union Canal. Notwithstanding the provision of the bridge which cannot be assured and should therefore carry little weight, improving access to the countryside and contributions towards improving surrounding public open space would accord with wider aims of PPS7 and the EoEP to improve access and enhance the countryside. [45, 46, 83]
158. The Core Strategy is at an early stage but some weight should be given to the Luton Green Infrastructure Plan, a comprehensive background document which sets out CBC's intentions for a GI network for the area. The proposed public open space is already included as part of the green infrastructure, but enhancement and linkages are encouraged and the appeal proposal would achieve this. There would be odours arising from the STW, particularly around the sewage inlet, close to the boundary with the open space, and sometimes odours would be distinct and undoubtedly annoying. However, visitors would be walking though the open space and there is no evidence that odours lessen the use or enjoyment of the towpath and open space to the north where they would already be experienced. [44, 46, 83, 84]
159. While there would be benefits to the public they would be weighed against the loss of 5 hectares of open land/GI. Moreover, there is already a wide range of public open space and a network of footpaths in the area. The whole site already contributes to Green Infrastructure provision without the necessity for it to be open to the public. The weight in favour of the proposal to be given to this aspect of the scheme is therefore limited. [83, 84]

**Issue 7: Other Matters – Whether there would be an effect on archaeology, ecology, status of Bossington Lane, traffic and transport, contaminated land and flooding.**

160. *Archaeology*: CBC's archaeologist advised in a letter of 6 April 2009<sup>80</sup> that archaeological finds at the site do not represent an over-riding constraint on development providing that provision is made to investigate and record remains in advance of the development. The proposed condition would ensure that no harm would arise in this matter. *Ecology*: A survey has been undertaken and did not identify any constraint to development. A condition is proposed requiring a further survey together with any mitigation and this would ensure that

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<sup>80</sup> CD33 CBC letter

biodiversity is protected. The parameters for housing and open space would ensure that key commuting and foraging routes for fauna would be maintained and enhanced. [61, 106, 111, 113,]

161. *Rights of Way*: There is a dispute about ownership which is not a planning matter but Bossington Lane appears to be a Bridleway and under the Highways Act the public are entitled to use it as such. *Contamination*: There are levels of arsenic naturally present on the site; however there are appropriate means of mitigation which would ensure that the site is fit for residential development. The proposed condition would ensure a satisfactory and safe environment. *Flooding*: A condition requiring details of surface drainage water would ensure that surface water would not contribute to any existing flooding problems in the area. [62, 106, 113]
162. *Transport and traffic*: Although there would be increased traffic, a Transportation Impact Assessment indicates that there would be capacity within the existing network to cope with the appeal proposal. There would be no harm to users of the highway from coming and going to the site subject to a new roundabout. The condition proposed would ensure that this is the case. The bus route would be extended into the site; there would be cycleways and footpaths linking up to routes into the town promoting sustainable means of transport. A travel plan has been submitted to encourage this. [62, 105, 112, 113]
163. There would be no harm arising from the proposal on these matters.

**Issue 8 Whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development (reason for refusal 1).**

164. Paragraph 3.2 of PPG2 records that very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. [29, 66]
165. The proposed residential development would be inappropriate development, encroach into the countryside, form urban sprawl and affect openness, and in this respect the proposal would be of substantial harm to the Green Belt. Additionally it would be significantly harmful to the character and appearance of an important landscape and pose some harm in terms of risk to the living conditions of the future occupiers. [30, 63, 102]
166. However this has to be balanced against other material considerations. Firstly, the proposed access to open space and contributions towards improvements would be of some limited benefit to the public increasing linkages and enhancing the GI of the town. Secondly, the proposed housing would help to meet the shortfall in the 5 year housing supply and contribute towards affordable housing which is needed in an area. Contributing towards regional and sub-regional targets in an identified growth area, in itself, is a significant material consideration in the favour of the proposal. [41, 45]
167. Nevertheless, the wider context should be taken into account. MKSMSRS recognises the need to provide housing and meet housing targets in the growth area is an exceptional circumstance requiring a strategic review of the Green

Belt. However, the proposal would not form part of a strategic review and would be an unplanned development in the Green Belt. [39, 64, 81]

168. It is clear that market fluctuations have influenced the shortfall with a reduced number of completions over recent years. There is also sufficient land identified until 2021 to meet housing targets. It is accepted that the Core Strategy setting out the policy framework for growth is at an early stage and future market conditions cannot accurately be predicted which leads to some uncertainty over deliverability of the 2021 target. However, at this point in time, the shortfall is less than one year and there is a plan emerging which seeks to remedy this in a strategic way. Therefore, meeting the housing shortfall would not be so urgent as to require unplanned parcels of land in the Green Belt to be built upon. This reduces the amount of weight to be afforded to the contribution toward the housing shortfall. [ 38, 39, 72, 74, 75, 103]
169. Account should be taken of PPS3 paragraph 71 seeking favourable consideration where there is a shortfall in the 5 year supply. This is qualified by paragraph 69 which sets out criteria for development to be complied with in any event. This indicates that development should be considered favourably where among other things the site is suitable for housing including its environmental sustainability. As the site would have a negative impact on the landscape and local residents its suitability for housing is questionable. [34, 64, 79, 103]
170. To conclude, there is substantial harm from the impact of the development on the Green Belt, landscape and living conditions of future residents and the proposal fails to comply with national and local policy in this respect. Other considerations including the provision of open space, enhancement of the GI and surrounding open space, and meeting the housing supply are not sufficient to clearly outweigh this harm. Very special circumstances do not therefore existing to justify the proposal.

## **RECOMMENDATION**

171. I recommend that the appeal be refused.
172. If the Secretary of State is minded to grant planning permission, then it should be subject to the conditions listed in Annex A of this Report.

INSPECTOR

*Christine Thorby*

## ANNEX A

### Schedule of Conditions

- 1) No development shall take place until there has been submitted to and approved in writing by the local planning authority a phasing plan and details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") The development shall be carried out as approved.
- 2) Application(s) for approval of the reserved matters in respect of each phase of the development shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters.
- 4) Application for approval of the reserved matters in respect of each phase of the development shall accord with the approved Parameters Plan reference 2736\_LO\_10030 D.
- 5) No development shall take place until there has been submitted to and approved in writing by the local planning authority engineering details of the junction between the proposed estate road and Stoke Road, and the shared footpath/cycleway between the proposed estate road and Rothschild Road (as shown on drawing No 208492/001/RevA). No building shall be occupied until that junction and means of access has been constructed in accordance with the approved details.
- 6) No development shall take place until there has been submitted to and approved in writing by the local planning authority details for the whole of that phase of the finished ground floor levels of all the approved buildings and the finished ground levels for all other areas of the site. The development of each phase shall be carried out in accordance with the approved details.
- 7) No development shall take place on a phase of the development until there has been submitted to and approved in writing by the local planning authority a scheme for the whole of that phase showing details of the boundary treatment including a timetable for its implementation. The development of each phase shall be carried out in accordance with the approved details.
- 8) No development shall take place on a phase of development until there has been submitted to and approved in writing by the local planning authority samples of all the materials to be used for the external walls and roofs of the buildings forming any part of that phase of development. The development of each phase shall be carried out in accordance with the approved details.
- 9) No development shall take place on a phase of development until there has been submitted to and approved in writing by the local planning authority detailed plans and sections for the whole of that phase showing the proposed internal roads including gradients and the method of surface water disposal. No building within that phase shall be occupied until the section of road which provides access to it has been constructed (apart from final surfacing) in accordance with the approved details.

- 10) No development shall take place on a phase of development until there has been submitted to and approved in writing by the local planning authority a scheme for the provision of surface and foul water drainage, to include SUDS, and a demonstration that any drainage system would not be a risk to the water environment in relation to that phase. The development of each phase shall be carried out in accordance with the approved details.
- 11) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme for the ownership and maintenance of the surface water system. The surface water system shall operate in accordance with the approved scheme.
- 12) No development shall take place on a phase of development until there has been submitted to and approved in writing by the local planning authority details for wheel cleaning facilities for construction vehicles. The development of each phase shall be carried out in accordance with the approved details.
- 13) No development shall take place on a phase of development until there has been submitted to and approved in writing by the local planning authority a detailed waste audit scheme relating to that phase, including details of refuse storage and recycling facilities. The development of each phase shall be carried out in accordance with the approved details.
- 14) No development shall take place on a phase of development until there has been submitted to and approved in writing by the local planning authority details of external facilities to be provided for disabled people and for those with mobility and visually impairment, which should include movement into, out of and through the site, access to, from and within parking facilities, bus stops, areas of open space and amenity land. The development of each phase shall be carried out in accordance with the approved details.
- 15) No development shall take place on a phase of development until there has been submitted to and approved in writing by the local planning authority details relating to that phase of a) the location of every existing tree (identified with a reference number) with a stem diameter over 75mm (measures at 1.5m above ground level) either within or overhanging the site, indicating its species, crown spread and assessment of its health and stability b) the location of every existing hedgerow (identified with a reference number) within or bounding the development site, indicating its constituent species and an assessment of its general health and stability c) identification of trees and hedgerows to be retained following completion of the phase; d) a scheme of measures to be taken to ensure the protection of the trees and hedgerows to be retained including a timetable for their implementation. The development of each phase shall be carried out in accordance with the approved details.
- 16) No development shall take place within the residential development area indicated on the Parameters Plan 2736\_LO\_10030 D until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority. The work shall be carried out in accordance with the approved scheme.

- 17) No development shall take place on a phase of development until a landscape management plan, including design objectives, management responsibilities and maintenance schedules for all landscaped areas (except privately owned domestic gardens) has been submitted to and approved in writing by the local planning authority. The development of each phase shall be carried out in accordance with the approved details.
- 18) No development shall take place until a scheme to deal with the risks associated with contamination of the site has been submitted to and approved in writing by the local planning authority. The scheme shall include:
  1. A preliminary risk assessment which has identified substances hazardous to health potential contaminants sources, pathways and receptors
  2. A site investigation scheme based on (1 above) to provide detailed risk assessment to all receptors that may be affected including off site.
  3. Based on the risk assessment and site investigation an options appraisal and Remediation Strategy to bring the site to a condition suitable for the intended use by removing unacceptable risks, giving full details of the remediation measures required and how and when they are undertaken. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
  4. A verification plan/validation report that demonstrates the effectiveness of the remediation carried out; that the works set out in (3 above) are complete; any requirements for long term monitoring of pollutant linkages, maintenance and arrangements for contingency action.The development shall be carried out in accordance with the approved details.
- 19) If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.
- 20) No development shall take place on a phase of development until there has been submitted to and approved in writing by the local planning authority a survey of flora and fauna for that phase and details of any necessary mitigation, as a supplement to the approved Ecological Report. The development of each phase shall be carried out in accordance with the approved Ecological Report and supplement.
- 21) No development shall take place on a phase of development until there has been submitted to and approved in writing by the local planning authority details of enhancement and construction of the proposed pond(s). The development of each phase shall be carried out in accordance with the approved details.



- 22) The dwelling(s) shall achieve Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.

## **APPEARANCES**

### FOR THE LOCAL PLANNING AUTHORITY:

Mr M Humphries QC	
He called	
Mr S Barnett	Senior Planning Officer
Ms J Scott	Landscape Officer CBC
Mr Fox	Head of Development Plan CBC
Mr G Hackney	Anglian Water
Dr J Turnbull	Anglian Water

### FOR THE APPELLANT:

Mr I Dove QC	
He called	
Mr M Bull	Ove Arup and Partners
Mr A Kratt	LDA design
Mr P Stacey	Turley Associates

### FOR THE CAMPAIGN TO PROTECT RURAL ENGLAND:

Mr T Adburgham	Area representative for South Bedfordshire and Luton
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### FOR THE RESIDENTS ACTION GROUP:

Ms T Wood	Local resident
Mr L Chellenbron	Local Resident
Mr Ashworth	Local resident
Mr T Brown	Local Resident
Mr Horne	Local Resident
Mr Ling	Local Resident

### INTERESTED PERSONS:

Mr Daly	Local Resident
Mr Birch	The Leighton Buzzard Society
Mr Brown	Local resident
Mr Bjelobaba	Local resident
Mr Maison	British Waterways
Mr Oliver	The Greensand Trust
Mr Deards	British Waterways
Mr J Gelder	Voluntary and Community South Bedfordshire

## **CORE DOCUMENT LIST**

CD1	Application package
CD2	East of England Plan (May 2008)
CD3	Milton Keynes and South Midlands Sub-Regional Strategy (March 2005)
CD4	Bedfordshire and Luton Structure Plan (March 1997)
CD5	South Bedfordshire Local Plan Review (Jan 2004)
CD6	South Bedfordshire Housing Requirement Study 2004
CD7	South Bedfordshire District Council - Guidance on Affordable Housing (2005)
CD8	Luton and South Bedfordshire Strategic Housing Land Availability Assessment (Apr 2009)
CD9	Delivering Affordable Housing (CLG) (Nov 2006)
CD10	Planning for a Sustainable Future White Paper (May 2007)
CD11	Homes for the Future: More Affordable, More Sustainable – Green Paper (CLG) (July 2007)
CD12	Building a Greener Future: Policy Statement (CLG) (July 2007)
CD13	Government response to CLG’s Committee Report on the Credit Crunch: Follow up (Sept 2009)
CD14	Consultation responses
CD15	Strategic Housing Land Availability Assessment: Practice Guidance (CLG) (July 2007)
CD16	South Bedfordshire Housing Land Availability Report (April 2008 and April 2009)
CD17	Luton Housing Land Availability Assessment (April 2007)
CD18	Land Supply Assessment Checks (CLG) (May 2009)
CD19	South Bedfordshire Housing Strategy 2008-13
CD20	Minerals and Waste Local Plan (January 2005)
CD21	LDF Core Strategy Preferred Options (April 2009)
CD22	Landscape Character Assessment
CD23	Decision Notice
CD24	Statement of Common Ground
CD25	Mr Staceys’ proof of evidence
CD26	Mr Kratt’s proof of evidence
CD27	Dr Bull’s proof of evidence
CD28	Mr Barnett’s proof of evidence and summary
CD29	Mr Fox’s proof of evidence
CD30	Ms Scott’s proof of evidence
CD31	Anglian Water’s proof of evidence
CD32	Letters of objection from interested parties
CD33	MP letter
CD34	CPRE proof of evidence
CD35	Resident’s Association Group documents

## **INQUIRY DOCUMENT LIST**

ID1	Proof of evidence of the Resident’s Action Group
ID2	Proposed conditions
ID3	Statement of common ground on housing land supply

ID4	Report to Cabinet 21.1.10
ID5	Letter from The Greensand Trust 26.3.09
ID6	SBDC memorandum 18.5.09
ID7	Letter from Anglian Water 27.3.09
ID8	Letter from GO-East 27.11.09
ID9	Letter from Howes Percival 16.12.09
ID10	Statement of common ground about STW capacity
ID11	Planning obligation
ID12	Appeal Decision 16.11.09
ID13	SBLP Report of the PI into objections January 1995
ID14	Report on review of EoEP 18.1.09
ID15	Email about housing trajectory 19.1.10
ID16	Statements from T Wood RAG
ID17	Statements from L Chellenbron RAG
ID18	Statements from A Ashworth RAG
ID19	Statements from B Horne RAG
ID20	Statements from E Ling RAG
ID21	Statement from P Brown RAG
ID22	Statement from T Daly
ID23	Statement from the Leighton Buzzard Society
ID24	Statement from the Leighton Buzzard Ramblers
ID25	DEFRA Code of Practice on Odour Nuisance from STW
ID26	Letter from British Waterways dated 22.01.10
ID27	CBC note on affordable housing
ID28	Landform (strategic context) map submitted by appellant
ID29	Sections, view line analysis submitted by appellant
ID30	Statement from The Greensand Trust
ID31	Letters from Anglian Water dated 25.01.10 and 26.01.10
ID32	Case No: C1/2008/0246 Judgement
ID33	Letter from Bloor Homes dated 14.01.10
ID34	Anglian Water Map of public sewers
ID35	Bridge costing submitted by appellant
ID36	Statement from The Friends of Linslade Wood
ID37	CBC Planning Obligations SPD and background paper
ID38	Bus service details submitted by appellant
ID39	Train network diagram submitted by appellant
ID40	Email comments on ecology submitted by appellant